

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARKEL DA'QUAN STEELE,

Petitioner,

vs.

DIANE SABATKA-RINE,

Respondent.

8:22CV23

MEMORANDUM AND ORDER

This matter is before the court on Petitioner's Notice of Appeal (filing 25) dated November 18, 2022 and docketed in this Court on November 28, 2022. Petitioner appeals from the court's Memorandum and Order and Judgment dated October 20, 2022 (filings 22 & 23), in which the court dismissed his habeas petition with prejudice. Also before the court is a memorandum from the Clerk of the Court requesting a ruling as to Petitioner's authorization to proceed in forma pauperis on appeal. (Filing 26.) Petitioner also filed what has been docketed as a motion for a certificate of appealability. (Filing 24.)

As set forth in Federal Rule of Appellate Procedure 24(a)(3):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal

is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding

The court finds that because Petitioner proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

Petitioner's motion for a certificate of appealability (filing 24) is addressed to the Honorable Steven L. Grasz of the Eighth Circuit Court of Appeals and clearly seeks a certificate of appealability from the Circuit Court. This court, therefore, will direct the clerk of the court to terminate the motion event and transmit the motion to the Eighth Circuit Court of Appeals along with Petitioner's Notice of Appeal.

IT IS THEREFORE ORDERED that:

1. Petitioner may proceed on appeal in forma pauperis.
2. The clerk of the court is directed to terminate the motion event for Filing 24, Petitioner's Motion for a Certificate of Appealability, and transmit Filing 24 to the Eighth Circuit Court of Appeals as a supplement to Petitioner's Notice of Appeal.

Dated this 1st day of December, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge